

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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IVAN LEE MATTHEWS, II,

Plaintiff,

v.

JO GENTRY, *et. al.*,

Defendants.

Case No. 3:19-cv-00368-MMD-CLB

ORDER

This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a state prisoner. On August 17, 2020, the Court issued an order directing Plaintiff Ivan Matthews, II, to file his updated address with the Court within 30 days. (ECF No. 3.) The 30-day period has now expired, and Plaintiff has not filed his updated address or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of L.A.*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissing for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissing for failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissing for failure to comply with local rule requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. United States Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987) (dismissing for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissing for lack of prosecution and failure to comply with local rules).

1 In determining whether to dismiss an action for lack of prosecution, failure to obey  
2 a court order, or failure to comply with local rules, the Court must consider several factors:  
3 (1) the public's interest in expeditious resolution of litigation; (2) the Court's need to  
4 manage its docket; (3) the risk of prejudice to Defendants; (4) the public policy favoring  
5 disposition of cases on their merits; and (5) the availability of less drastic alternatives.  
6 See *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at  
7 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

8 In the instant case, the Court finds the first two factors, the public's interest in  
9 expeditiously resolving this litigation and the Court's interest in managing the docket,  
10 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs  
11 in favor of dismissal, since a presumption of injury arises from the occurrence of  
12 unreasonable delay in filing a pleading ordered by the Court or prosecuting an action.  
13 See *Anderson v. Air W.*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—public  
14 policy favoring disposition of cases on their merits—is greatly outweighed by the factors  
15 in favor of dismissal discussed herein. Finally, a court's warning to a party that his or her  
16 failure to obey a court's order will result in dismissal satisfies the "consideration of  
17 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33;  
18 *Henderson*, 779 F.2d at 1424. The Court's order requiring Plaintiff to file his updated  
19 address with the Court within 30 days expressly stated: "It is further ordered that, if Plaintiff  
20 fails to timely comply with this order, the Court shall dismiss this case without prejudice."  
21 (ECF No. 3 at 2.) Plaintiff thus had adequate warning that dismissal would result from his  
22 noncompliance with the Court's order to file his updated address within 30 days.

23 It is therefore ordered that this action be dismissed without prejudice based on  
24 Plaintiff's failure to file an updated address in compliance with the Court's August 17,  
25 2020 order.

26 It is further ordered that the application to proceed *in forma pauperis* (ECF No. 1)  
27 is denied as moot.

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1 The Clerk of Court is directed to enter judgment accordingly and close this case.  
2 No further documents shall be filed in this closed case. If Plaintiff wishes to pursue his  
3 claims, Plaintiff must file a complaint in a new case, and he must either pay the \$402.00  
4 filing fee or file a complete *in forma pauperis application* in that new case.

5 DATED THIS 11<sup>th</sup> Day of January 2021.

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9 MIRANDA M. DU  
10 CHIEF UNITED STATES DISTRICT JUDGE  
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